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FEDERAL COMMUNICATIONS COMMISSION  
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March 6, 1995

EX PARTE OR LATE FILED

Hon. Reed Hundt, Chairman  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

**Re: Ex Parte Comments in CC Docket No. 94-1, Price  
Cap Performance Review for Local Exchange  
Carriers**

Dear Chairman Hundt:

We write on behalf of the Education Coalition. The Coalition submitted reply comments in this docket earlier this year requesting that the Commission authorize local exchange carriers (LECs) to redirect the Consumer Productivity Dividend (CPD) from interexchange carriers to a credit bank for connecting classrooms and libraries to the NII and to each other. Under our proposal, each LEC would decide for itself whether to give the CPD to interstate carriers as in the past or to give it instead to education groups for improving their telecommunications infrastructure. On November 22, 1994, the Coalition also submitted a letter which disproved the contentions of some that the Commission has no jurisdiction to adopt its proposal and that the proposal constitutes a "tax".

While the Coalition urges the Commission to issue a Further Notice in this proceeding to establish specific rules to implement the CPD credit bank program the Coalition has recommended, the Coalition offers a few suggestions below at the request of Commission staff. Before doing so, however, the Coalition wants to emphasize that the CPD redirection proposed would be voluntary with each LEC. Any LEC that preferred to continue giving interexchange carriers (instead of educational institutions) the benefit of the CPD would be free to do so.

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**The Second FCC Proceeding: How classrooms and libraries  
would get connected to the NII**

The Coalition recommends that a small Board of Stakeholders be established in each state, with representatives from business, education, libraries, the community and government, to determine how schools and libraries apply for access to the credit bank. The Coalition urges that priority be given to multi-year plans from schools and libraries in disadvantaged areas, with preference given to plans that help to network communities.

The Commission can obtain the information it needs to effectively administer the new CPD credit bank program by requiring each LEC who participates in the program to provide all necessary information in its annual access tariff filing. For example, the Coalition proposes that the Commission require each participating LEC to list its CPD amount in this annual filing; this is the amount that would be available for use by educational institutions during the following year. This would be an easy revision from present practice for both the LEC and the Commission since the FCC already requires this annual filing to show the amount of interstate revenues subject to CPD adjustment based on the LEC's performance during the prior year.

The Coalition also recommends that the Commission require partitioning of each participating LEC's total CPD amount among each state within the LEC's service area and should require the LEC to show on its annual filing the CPD amount in each state it serves. The Coalition proposes that partitioning be based on each state's relative contribution to the LEC's gross interstate revenue.

The Commission also should require each participating LEC in the same filing to provide any information it thought was necessary to confirm that the LEC's administration of the CPD grant program during the previous year complied with all Commission requirements. For example, the Commission might want to require the LEC to list each educational institution that received an award during the previous year along with the amount of the award and a description of the telecommunications service or facility acquired with the award.

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Aside from requiring the LEC to disclose on its annual price cap filing all information necessary to oversee the program, the Commission also should adopt a few basic rules to govern each participating LEC's administration of its CPD account. The Commission may want to limit these regulations to rules that cover the following matters although the Coalition would not object if it adopted additional requirements as well:

- A rule defining educational institutions eligible to apply for grants. The Coalition recommends that the agency adopt a rule allowing applications from any public school, public library, or local public education agency located within the telephone service area of any LEC which participates in this program.<sup>1/</sup>
- A rule requiring that infrastructure obtained under this program be acquired through competitive bid. In order to implement this competitive bid requirement, the Commission also might want to consider requiring that each applicant seek competitive bids prior to submitting its application and disclose the winning bid in its application.
- A rule establishing criteria by which LECs must award grants. If the Commission wants to ensure that LECs make grants for infrastructure projects the Commission deems most important (rather than leaving establishment of these priorities to individual LECs), it has several options. For example, it could require LECs to award grants pursuant to the same criteria by which grants of other types are awarded to educational institutions. The criteria for grants under Title 3 of the Elementary and Secondary Education Act or the Library Services and Construction Act might serve as a useful guide in this regard. Alternatively, the Commission may want to

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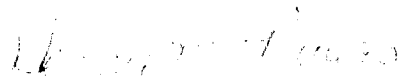
<sup>1/</sup> Educational authorities in each state should be allowed to decide, pursuant to established mechanisms in that state, whether applications are submitted on a school-by-school (or library-by-library) basis or whether applications are submitted on a district-by-district basis or on some other basis. Moreover, the Commission also could allow existing mechanisms to be used in each state to set infrastructure modernization priorities in order to avoid duplicative and low priority applications.

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consider requiring LECs to award a disproportionately large portion of the CPD amount in each state to applicants serving areas with the highest poverty levels.

We hope this is helpful.

Sincerely,



Henry M. Rivera  
Rodney L. Joyce  
Counsel for the Education Coalition

cc: Commissioner James H. Quello  
Commissioner Andrew C. Barrett  
Commissioner Susan Ness  
Commissioner Rachelle Chong  
William F. Caton, FCC Secretary  
Kathleen Wallman, Esquire  
American Library Association  
Council of Chief State School Officers  
National Education Association  
National Association of Secondary  
School Principals  
National School Boards Association